IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO: 6417 of 2005

Between:

M. Suryanarayana, S/o. Siva Rao, Hindu,
Mylavaram (V), Krishna District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh,

Rep. by its Principal

Secretary, Revenue (Endowments) Department,

Secretariat, Hyderabad, Andhra Pradesh.
2 The Commissioner, Endowments Department,

Andhra Pradesh, Tilak Road, Nampally,

Hyderabad, Andhra Pradesh.
3 The Executive Officer,

Sri Venkateswara Swamy Devasthanam,
Jamalapuram (V), Yerrupalem Mandal,

Khammam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to

issue a Writ, Order or direction particularly one in the nature of Writ of Mandamus declaring the action of the Respondents in not renewing the lease hold rights of coconut shop of Sri Venkateswara Swamy Devasthanam, Jamalapaurm, Yerrupalem Mandal, Khammam District in favour of the petitioner as being the highest bidder in the public auction conducted on 15-3-2004 for three years, for the remaining years of 2005-06 & 2006-07 and proposing to conduct fresh auctions is contrary to law, void illegal, and offending article 14, 16 and 300-A of the Constitution of India and consequently directing the Respondent No.2 - Commissioner, Endowments Department, A.P. Hyderabad to renew the lease hold rights of coconut shop of Sri Venkateswara Swamy Devasthanam, Jamalapaurm, Yeerupalem Mandal, Khammam district for the years 2005-06 and 2006-07 also.

Counsel for the Petitioner: MR.G.V.L.N.MURTHY

Counsel for the Respondents: GP FOR ENDOWMENTS

The Court at the stage of admission made the following:

ORAL ORDER:

Petitioner seeks interdiction of the action of the respondents in not renewing his leasehold rights of a coconut shop in
Sri Venkateswara Swamy Devasthanam, Jamalapuram Village, Yerrupalem Mandal, Khammam District, on his status of being the highest bidder in the public auction conducted on 15-03-2004 for the years i.e., 2005-06 and 2006-07. Petitioner is also aggrieved by the action of the respondents in proposing to conduct fresh auction for the said purpose for the current and the ensuing years.

On 05-03-2004, the third respondent issued a notification calling for bids for grant of leasehold right for sale of coconuts in five shops of the Devasthanam. The notification mentioned that the lease period would be one year i.e., from 01-04-2004 to
31-03-2005. At the auction, however, the bidders appeared to have requested the third respondent to club the five shops as one and to fix the lease period for three years instead of one year as notified. Giving in to the representation of the bidders, the third respondent appears to have conducted the auction clubbing the five shops and fixing the lease period for three years. The petitioner having participated in the auction, and being the highest bidder, offered a sum of Rs.2,52,000/- per year. Under the statutory rules governing the scenario, the third respondent is only the initiator of the auction process. After the auction, the third respondent has to send

proposals to the second respondent, who is the competent authority, to approve the bids resulting in a concluded agreement. The second respondent by the order dated 10-6-2004 approved the lease only for a period of one year. The petitioner equivocally states that he had received the orders of the second respondent dated 10-06-2004 only 'recently'. In view of the lease being only for a period of one year i.e., up to
31-03-2005, pursuant to the auction held on 15-03-2004, the third respondent-Devasthanam authorities issued a notification for grant of leasehold rights of the coconut shop for the ensuing year 2005-06. At this stage, on coming to know of this proposal, the petitioner submitted a representation to the second respondent in January, 2005 stating that the third respondent had, in the presence of the bidders and others, proposed the auction for a period of three years, he was expecting that the lease would be for three years, that he learnt about the commissioner's order approving auction only for one year recently, and requesting the second respondent to renew and issue approval for leasehold rights for the years 2005-06 and 2006-07 also, as he could not derive the lease amount for the year 2004-05 on account of certain contemporaneous factual circumstances like a sluggish season. One of the complaints of the petitioner is that the second respondent has not responded to his representation
dated January, 2005.

It is not disputed, nor could it be, that the petitioner's entitlement to leasehold rights of the shop in the Devasthanam accrues only after approval of the lease by the second respondent. It is also not disputed that lease notification was for a period of one year. The provisional acceptance by the third respondent of the lease being for a period of three years during the auction process cannot be a legal exercise as no auction could be held without a public notification. When the public notification is for a period of one year, no variation thereof would be permissible because such a variation would denude the notification of its transparency and thus be subversive of public interest. The third respondent has no manner of authority or jurisdiction to vary the terms of the notification at least with regard to the period of the lease. At any rate, this creative exercise of the third respondent was corrected by the second respondent in approving the lease only for a period of one year in accordance with the notification. If the petitioner relied on the fact of the third respondent's

acceptance of the persuasions by the bidders that the lease should be for a period of three years, such reliance is based on a mistake of fact and of law as to the jurisdiction and authority of the third respondent.

On the aforesaid analysis, the petitioner is seen to have no manner of legal right to treat his one-year lease as being of three years duration. There is also nothing in the legal environment, which enables renewal of the lease. In the absence of any legal right, no mandamus can be issued. The petitioner, in extremis, requests that the second respondent be directed at least to dispose of his representation dated January, 2005, as he was an existing leaseholder in January, 2005. His representation deserves consideration on merits and in accordance with law. He is entitled to a response from the second respondent.

In the aforesaid circumstances, while rejecting the principal and substantive plea of the petitioner, the writ petition is disposed of directing the second respondent to consider and dispose of the petitioner's representation dated January, 2005 in accordance with law, and communicate the decision to the petitioner. No order as to costs.

17-06-2005

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Copy to:

1 The Principal Secretary,

Government of Andhra Pradesh,

Revenue (Endowments) Department,

Secretariat, Hyderabad, Andhra Pradesh.

2 The Commissioner, Endowments Department,

Andhra Pradesh, Tilak Road, Nampally,

Hyderabad, Andhra Pradesh.

3 The Executive Officer,

Sri Venkateswara Swamy Devasthanam,
Jamalapuram (V), Yerrupalem Mandal,

Khammam District.

4 Two C.Cs. to G.P. for Endowments,

High Court Buildings, High Court of A.P.,

Hyderabad (OUT)

5 Two CD copies.

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